

Policy and Procedure for Verification of Identity Prior To Disclosure of Protected Health Information

45 CFR 164.514(h)

PURPOSE: To establish the policy and procedure for verifying the identity or authority of any person requesting protected health information (PHI) prior to the disclosure of such PHI.

POLICY: IHS facilities will verify the identity of any person requesting PHI and the authority of any such person to have access to the requested PHI, if the identity or such authority is not known to IHS. A patient may request that PHI pertaining to him or her be released to him/herself or others s/he specifies. Guardians may request the release of PHI on behalf of their wards. Representatives of hospitals, clinics and health centers may request the release of PHI. Law enforcement officials and other individuals may request PHI of a patient.

In all cases, any disclosure will be made in accordance with the Policy and Procedure for the Use or Disclosure of Protected Health Information, the Policy and Procedure for Limiting the Use or Disclosure of Protected Health Information to the Minimum Necessary, and the Policy and Procedure on Protected Health Information of Unemancipated Minors.

PROCEDURES: The following procedures shall be used to verify the identity of any person or entity/organization requesting PHI.

1. Request Made In Person

A. Patient Requests:

If the identity of the patient requesting PHI is personally known to the responsible IHS staff member, the patient's representation regarding his/her identity will be sufficient verification if it is reasonable under the circumstances. Otherwise, the patient's identity shall be verified as follows upon completing the IHS-810 Form (IHS Form 810 is available at <http://forms.psc.gov>):

- a. Provide one piece of tangible identification (preferably picture I.D.), such as driver's license, military identification card, tribal identification card, employment identification card/badge, passport or alien registration card. If a patient is requesting his or her own PHI, the name on the identification must match the name of the patient whose record is being sought. If the patient's name has been legally changed, evidence documenting the name change must be presented. Additionally, the patient shall provide particulars which can be verified by information already included in the record, such as place of birth, names of parents, an occupation, rank attained in Uniformed Services or specific times the patient received medical treatment.
- b. If the patient cannot produce identification, in addition to providing the particulars noted above, s/he shall certify in writing that s/he is the individual who s/he claims to be, and that s/he understands that the knowing and willful request for or acquisition of a record under false pretenses is a criminal offense under the Privacy Act and subject to a fine of not more than \$5,000 fine.

B. Individual (third party) Requests:

- a. If a request is made by a law enforcement official, the official must verify his or her identity by producing a badge, official identification, or some other identification that shows that the law enforcement official has the authority to accept the PHI on behalf of the law enforcement agency. The law enforcement official must also produce the law enforcement request or court order requesting the release of PHI if it is not already on file.
- b. If a patient authorizes in writing PHI to be disclosed to an attorney, and the attorney comes to the IHS facility in person to pick up the records, the attorney must present valid photo identification and authority (e.g., business card) that is consistent with the patient authorization regarding to whom the PHI may be disclosed. If a representative of the attorney comes in the attorney's place, the representative must submit proof that the representative has authority to act on behalf of the attorney (e.g., agreement between a records company and an attorney). This provision also applies to patient authorizations to disclose PHI to an insurance company representative.
- c. If a patient authorizes in writing PHI to be disclosed to another individual (e.g., family member or friend), the individual must verify his or her identity with photo identification that matches the patient authorization to whom the PHI may be disclosed.

C. Requests by Parents, Legal Guardians, or other Personal Representative:

An individual who makes a request for PHI on behalf of a minor, a person who is legally incompetent, or another individual shall verify that he has authority to act by providing a copy of a birth certificate, a court order, or other competent evidence of the relationship or authority, e.g., health care power of attorney, in addition to verifying his own identity with photo identification (unless personally known to the IHS employee), unless the responsible IHS staff person can establish that evidence of the relationship or authority has previously been provided.

The type of identification and any documentation of authority used will be documented on the completed IHS-810 Form, e.g., "verified, Driver's License." The staff making the verification must initial and date the form.

2. Request Made By Mail

Since it is not possible to verify identity through the mail, upon receipt by mail of a request for PHI, responsible staff shall:

- A. If the patient is requesting PHI to be sent to him/herself, verify that the name, address, particular information, and signature on the request are the same as those in the patient file. The patient must make the request using IHS Form 810, and the request must either be notarized or contain a certification by the patient that s/he is the individual s/he claims to be. Maintain the request in the medical record and release the PHI.
- B. If the patient is requesting PHI to be sent to another individual and encloses an IHS Form 810, verify the identity in accordance with 1.A above and release the information only to

the name and address of the individual authorized to receive the PHI in accordance with the patient authorization.

- C. If another individual requests (including requests by law enforcement, attorneys, or insurance company representatives) PHI of a patient, the requestor must include documentation of authority (e.g., law enforcement requests must be on letterhead, requests by attorneys must include a completed patient authorization verified in accordance with 1.B or 1.C above. Such documentation will be maintained in the patient health record.
- D. If there is any variation, the responsible IHS staff person shall obtain from the requestor an explanation and documentation in a form that complies with this Policy and Procedure. For example, a requestor who is a guardian must supply a birth certificate, a court order, or other competent evidence of the authority or relationship; a name change must be documented. The type of documentation provided and the date of request shall be noted in the patient health record by the IHS staff member.
- E. Upon receipt of the requested documentation, compare any names, addresses, particulars and/or signatures on the documentation the record. If the documentation is adequate under this Policy and Procedure, note the documentation in the record and release the PHI.

3. Request by a Healthcare Provider

- A. Telephone Request Made for Emergency Treatment Purposes
 - a. Take the provider's name, facility name, location, and the telephone number of the requesting entity, and verify the identity of the requesting individual by telephoning the number provided.
 - b. Document the call and the individual who received the call on the provider's behalf; this serves as identification verification.
 - c. Document the information being sought or requested.
 - d. Document the reason for the request.
 - e. Provide only the PHI that the requesting entity indicates is necessary to be provided by telephone at that time. Provide the rest of the requested PHI by the same means as it would be provided to the requesting entity in a non-emergent circumstance.

Note: Do not withhold if the entire record is required for medical treatment purposes.

4. Requests by Subpoena/Court Order

Process under IHS Policy and Procedure for responding to requests for PHI by subpoena/court order and referral to the Area Health Record Consultant.